

Advanced Notice of Proposed Rulemaking for Delisting of Northern Rocky Mountain Gray Wolves

Q&As

Summary: The wolf population in the northern Rocky Mountains (NRM) has exceeded its biological recovery goal every year since 2002 and no longer meets the biological criteria to be listed as an endangered or threatened species. The Service is announcing an advanced notice of rulemaking proposing to establish a NRM wolf distinct population segment (DPS) encompassing the biological NRM wolf population and a buffer zone of about 120-180 miles where continued wolf dispersal is highly likely. With the exception of inadequate state regulations to control excessive human-caused mortality outside of the National Parks in Wyoming, all the threats to the wolf population have been addressed. The purpose of the advance notice of proposed rulemaking is to solicit written comments from the public on the Service's intent to delist a distinct population segment (DPS) of wolves in the northern Rocky Mountains that have met their recovery goals. The Service currently intends to propose delisting only after the Wyoming state law and plan are modified and can be approved by the Director of the FWS.

Q- Why is the Service announcing an advance notice of proposed rulemaking at this time?

A – The northern Rocky Mountain wolf population has exceeded its biological recovery goal every year since 2002 and no longer meets the biological criteria to be listed as an endangered or threatened species. The Service believes that Rocky Mountain wolves no longer require federal protection and are eligible for delisting under the Endangered Species Act. However, the Service can not delist the northern Rocky Mountain wolf DPS without Wyoming's help in ensuring their state law and management plan meet the criteria for approval by the Service. The Service wants to encourage the State of Wyoming to develop a state law and wolf plan that meets the Service's criteria for approval.

The purpose of the advance notice of proposed rulemaking is to solicit public comments and input on the Service's intent to delist a distinct population segment (DPS) of wolves in the northern Rocky Mountains that have met their recovery goals and no longer require protection under the Endangered Species Act. As part of the future rulemaking, the Service intends to propose to establish a gray wolf DPS encompassing the geographic boundary of all of Montana, Idaho and Wyoming, the eastern third of Washington and Oregon, and a small part of north-central Utah.

Q – Why does the Service intend to propose to delist the northern Rocky Mountain population of wolves?

A- The wolf population in the NRM is no longer endangered or threatened. The wolf population in MT, ID, and WY contains about 70 breeding pairs and 1000 wolves. The

wolf population achieved its biological recovery goal of at least 30 breeding pairs and over 300 wolves for at least three consecutive years, in late 2002. It has exceeded it every year since. All threats to the wolf population, except for the unregulated and potentially excessive levels of human-caused mortality allowed by Wyoming state law, have been addressed. If Wyoming had an approved regulatory framework for wolf management, the Service could propose to delist the NRM wolf DPS.

Q -Hasn't the Service already proposed to reclassify and delist wolves?

A- In 2003, a steadily growing gray wolf population in the western Great Lakes states and the highly successful reintroduction program in the northern Rocky Mountains prompted the Service to change the status of gray wolves in these areas from "endangered" to "threatened" under the Endangered Species Act. The reclassification rule also established three Distinct Population Segments (DPS) for gray wolves. The three DPS areas encompassed the entire historic range of gray wolves in the lower 48 states and Mexico. DPS areas also correlated to the three primary geographic areas with large wolf populations and central locations for Federal and State recovery activities. In 2004, the Service proposed to delist the Eastern population of gray wolves.

The delisting proposal and the reclassification were challenged in Federal courts last year, and both actions were overturned, citing concerns about how the DPS boundaries were drawn and provisions for public comment between the draft and final rules. This proposal is an attempt to comply with the courts' rulings while recognizing, as the courts did, that wolf populations in the northern Rocky Mountains have achieved the criteria for delisting established by their peer-reviewed recovery plan.

Q- What is a Distinct Population Segment?

A- Under the Endangered Species Act, a "species" is defined broadly to include species, subspecies, and also to include Distinct Population Segments, or DPS, of vertebrate species. A DPS is a portion of a vertebrate species or subspecies that is geographically discrete from the rest of its kind and also is significant to its survival. A DPS designation allows the Service to treat populations of a species that meet certain criteria for genetic or geographic uniqueness as a separate entity for listing purposes. Thus, the Service can list or delist populations that meet the criteria of a DPS independent of considerations that may govern evaluation of the entire species. In this case, the Service is proposing to designate the northern Rocky Mountain wolf DPS, recognizing that the wolf population within its boundaries is isolated from other populations and has met all established recovery criteria. Delisting this DPS will allow the Service to focus its efforts on other wolf populations or species that are more in need of attention.

Q- What does Wyoming have to do to have an approved state law and wolf management plan?

A- It is the Service's position that the Wyoming state law has to be changed to give Wyoming Game and Fish Department [WYGF] the legal authority to manage the wolf population above 10 breeding pairs and 100 wolves in mid-winter. The current State "predatory animal" status prohibits WYGF management from maintaining the minimum

number of wolf packs required outside of the National Park Units in northwestern Wyoming.

Specifically, the Service must be assured that the Wyoming state law clearly authorizes the Wyoming state wolf plan and professional wildlife managers in Wyoming Game and Fish Department to-

- Classify all wolves in Wyoming as trophy game or similar status so Wyoming Game and Fish Department has clear legal authority to regulate human-caused mortality if needed.
- Clearly commit to managing for 15 packs of wolves to ensure that the Wyoming wolf population never goes below 10 breeding pairs and 100 wolves in mid-winter. Wyoming must maintain some wolf packs in northwestern Wyoming outside the National Park Units.
- Define a wolf pack by scientific standards that approximate the current breeding pair definition so that Montana, Idaho, and Wyoming all use the same criteria to manage for and maintain for a recovered wolf population.

Q- Does this mean the U.S. Fish & Wildlife Service will require wolf packs to be maintained throughout all the states Montana, Idaho, and Wyoming?

A- No. The recovery goals only mandate that each state maintain at least 10 breeding pairs and at least 100 wolves per state, within the general area currently occupied by wolf packs. There are many parts of Montana, Idaho and Wyoming where once-historic wolf habitat has been so modified by human use that it can no longer support wolf packs. The state fish and game agencies will regulate human-caused mortality so that in many parts of those states wolf packs will never form. The Service fully recognizes that wolves can not occupy their entire historic range, and supports limiting wolf distribution to suitable habitat as long as recovery is not threatened.

Q- Why not wait until Wyoming has an approved plan before proposing that wolves be delisted?

A- The advanced notice of proposed rulemaking simply notifies the public of our intention to formally propose delisting as soon as Wyoming develops a state law and wolf plan that the Service can approve. The NRM wolf DPS delisting is contingent on Wyoming having a state law and wolf management plan that the Service has approved. As of now, the Service has not approved their management plan. However, the Service wants to encourage the State of Wyoming to create a state law and wolf management plan that can be approved so wolves can be proposed for delisting. The Service has already approved state wolf plans in Montana, Idaho, Minnesota, Michigan, and Wisconsin. It is the Service's position that the Wyoming state law must give their professional wildlife agency the legal authority to manage the wolf population outside the National Parks in Wyoming. Further, by going through the year-long process to establish a NRM wolf DPS and by announcing our intent to do so now, the Service can save time and resources once Wyoming modifies their state law and develops a plan we can approve.

Q- What happens when Wyoming develops a modified state law and plan?

A- The Service must ensure that both the state law and management plan clearly allow WYGF the flexibility it might need to manage for more than 10 breeding pairs and 100 wolves in Wyoming. If the new law and plan are still inadequate, the Service does not intend to propose to delist the NRM wolf population. If the Wyoming plan is approved, the Service intends to propose delisting and ask for additional public comment. If after the required legal process and public comment period, the final decision is that the wolf population should be delisted, the Service would publish a final rule in the federal register that wolves in the NRM wolf DPS would be delisted and therefore, would be solely managed by the States and Tribes.

Q- How many wolves must the States manage for if they were delisted?

A- Montana, Idaho, and Wyoming must each manage for at least 10 breeding pairs and at least 100 wolves in mid-winter so the wolf population never goes below 30 breeding pairs and 300 wolves. If the wolf population ever dropped below that level, wolves could once again be listed under the ESA under the Service's emergency listing authorities.

Q- How is the final decision made?

A- The Service is asking for public comment on this advanced notice of proposed rulemaking. The Service will review all information submitted and decide whether the proposed DPS is adequate, if the wolf population is recovered, and if all the future threats to the wolf population have been resolved [except Wyoming's state regulatory framework]. If the answer is yes, the Service will wait for Wyoming to develop a state law and plan approval. If that doesn't happen, a delisting proposal will not be finalized. If Wyoming developed a state law and plan that met the Service's criteria for approval, then the Service intends to publish a rule to establish and delist the NRM wolf DPS and solicit public review and comment on it. After public comment and peer review, the Service would decide whether to publish a final rule delisting the NRM wolf DPS.

Q- What happens to wolves outside the NRM wolf DPS if a proposal is published and wolves are delisted in the future?

A- If this advanced notice leads to a proposed rule that is ultimately finalized, it will not affect any wolves outside of the proposed NRM wolf DPS. Wolves are listed by their location. So any wolf outside the NRM wolf DPS would remain listed as they are currently. For example, if a wolf occurred in Colorado, it would still be listed as endangered.

Q- Who makes the final decision whether Wyoming's regulatory framework can be approved or if wolves should be delisted?

A- The Director of the U.S. Fish and Wildlife Service makes the final decision. The Director also consults with other high level decision makers in the DOI, including the Secretary of the Interior before acting on any recommendations from the Mountain-Prairie Regional Director.

Q- Is there any federal oversight once wolves were delisted?

A- Yes. The Endangered Species Act has many safeguards to ensure that the decision to delist the NRM wolf DPS will protect a self-sustaining population. The Act mandates

that the Service monitors the wolf population for at least 5 years after delisting to ensure it remains above recovery levels. For at least 5 years after the wolf population is delisted, the Service will monitor the status of the wolf population by posting the mandatory annual state wolf management reports and our analysis of those reports on its website for public review and comment.

Q- What is tribal involvement after wolves are delisted?

A- The Nez Perce Tribe led wolf management efforts in Idaho under a cooperative agreement with the Service from 1995 to 2005, and they did an outstanding job. The Tribe and the state of Idaho signed a cooperative agreement in 2005, to maintain the Tribe's involvement in wolf management. Tribes will have sole management responsibility on tribal lands if wolves are delisted. The States and Tribes will address any tribal treaty right issues on public lands, such as harvest, just as they current do for other resident wildlife species.

Q- How will livestock and wolf conflicts be handled if wolves are delisted?

A- The Service and USDA Wildlife Services currently work together to investigate and respond to reports of suspected wolf damage to livestock. The States have signed cooperative management agreements with USDA Wildlife Services to assist them with wolf management. If wolves are delisted, the States will continue working with USDA to investigate and manage wolf/livestock conflict. Landowners will be able to shoot wolves attacking or molesting their domestic animals, just as they now can shoot black bears or mountain lions that are seen attacking or harassing their livestock.

Q- Will delisting the NRM wolf DPS mean that wolves can be hunted?

A- Hunting wolves is prohibited in National Parks, such as Yellowstone. However, when wolf populations outside the National Park Units are above 15 packs per state, the state Fish and Wildlife agencies will likely propose public hunting seasons as a method to help manage wolf numbers and wolf pack distribution. The Service fully supports regulated public harvest programs as important tools to help manage wildlife populations.

Q- Can the states be trusted to manage wolves?

A- Yes. It is important to remember that one of the reasons wolf recovery was possible is that the state fish and wildlife agencies and sportsmen restored wolf prey, including elk, deer and moose. The States have professional fish and wildlife organizations with hundreds of employees, including biologists, wardens, researchers, educators, and managers who have done an outstanding job at restoring and managing wildlife in their states. The Service is confident they'll do the same for wolves once they are delisted. In the unlikely event that the States fail to manage wolves appropriately, the FWS can list wolves again under the ESA.

Q-Who is paying for all of this?

A- Under protections of the ESA, the federal government has paid all the costs for wolf restoration and management. In 2005, about \$2 million was spent on wolf management, mostly for the states of Idaho and Montana. Once wolves are delisted it is anticipated

that most management costs will still be covered by federal appropriations, but the States will begin to fund some of the cost of wolf management through other funding sources.

Q- Who will pay livestock compensation if wolves are delisted?

A- Since 1987, Defenders of Wildlife has paid over \$550,000 for livestock killed by wolves in the NRM. Because it is uncertain if private compensation program will continue if wolves are delisted, the states of Montana, Idaho, Wyoming, as well as Oregon and Utah anticipate that state administered compensation programs will complement or take the place of the Defenders program after delisting.

Q – How does the Advanced Notice of Proposed Rulemaking affect Wyoming’s petition to delist wolves?

A – It doesn’t. We are continuing to evaluate that petition under the Endangered Species Act. This advanced notice of proposed rulemaking represents our current views during the process.